

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT

IN AND FOR MIAMI-DADE COUNTY, FLORIDA

CASE NO.: 2018-018704-CA-01

JUDGE: JAVIER ENRIQUEZ

MARIO MIRABAL,

Defendant,

v.

DEUTSCHE BANK NATIONAL TRUST COMPANY,

Plaintiff.

**DEFENDANT’S EMERGENCY MOTION TO PRESERVE ORIGINAL DOCUMENTS, OBJECT TO ORDER
AUTHORIZING SUBSTITUTION OF PHOTOSTATIC COPIES AND CERTIFY RETURNED
DOCUMENTS**

Defendant Mario Mirabal respectfully moves this Court to, vacate, the prior Order issued by Judge Tanya Brinkley granting Deutsche Bank’s “Motion for Order Dismissing Case Without Prejudice, Canceling Notice of Lis Pendens, Directing Clerk to Return Original Documents and to Substitute Photostatic Copies in the Court File”, and states:

1. Request to Remove and Substitute Original Documents Raises Alarming Red Flags

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1. Request to Remove and Substitute Original Documents Raises Alarming Red Flags

On information and belief, the Motion submitted by Deutsche Bank's counsel requested the physical removal of original mortgage documents — including, potentially, the original Note, Mortgage, or key Assignments — from the court record. Deutsche Bank simultaneously requested that these be replaced with photocopies, a step that:

Undermines authentication and evidentiary value;

Hinders chain-of-custody integrity;

May constitute tampering or an effort to conceal fraud.

2. Original Documents Are Central to Standing and Validity

It is well-established in foreclosure jurisprudence that standing must exist at inception, and often hinges on the possession of the original note. Substitution with “copies” frustrates the evidentiary audit trail and prejudices the ability of Defendant or any reviewing court to challenge standing, forgery, or fraud.

3. Pattern of Fraud and Forgery Already Alleged in Case

Defendant has already filed a pending Motion to Vacate Final Judgment under Fla. R. Civ. P. 1.540(b), which outlines:

Alleged fabrication of his Homestead's assignment of mortgage by MERS on behalf of IndyMac after FDIC receivership;

Conflict of interest and possible collusion involving PHH Mortgage and downstream parties (KP Investments Miami LLC) ;

Misrepresentations to the Court and abuse of judicial process.

Removing these documents now — especially while this Motion is pending — creates the appearance of a coordinated effort to bury problematic evidence.

[Throughout the foreclosure proceedings, Deutsche Bank failed to produce a

legitimate original note and pursued claims based on fraudulent and invalid

assignments. (the Note that in a prior case in 2013 Deutsche Bank claimed had been lost - that case was dismissed-, then reappeared in the 2018 case)

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On December 3, 2024, Deutsche Bank filed a motion to dismiss the case in a Judge Tanya Brinkley Court, asserting the debt was “paid off.” This motion did not disclose that Deutsche Bank had sold the property to KP Investments prior to filing the motion, in essence circumventing the ongoing Rule 1.540(b) motion for fraud and collusion with KP Investments before Judge Tanya Brinkley.

While Kp Investments filed a complaint with Judge Fajardo Orshan, with evidence in the form of a fraudulently conducted warranty deed presumably issued by the defendant through a special magistrate for \$10—a nominal consideration, while the Defendant has a pending Rule 1.540(b) motion for fraud and collusion before Judge Miller against KP Investments. Deutsche Bank’s admission in the bankruptcy adversary proceeding that it sold the property to KP Investments confirms the collusion between these parties, the fraudulent nature of the conveyance, and the material omission made to all related Courts]

4. Public Record and Due Process Principles Demand Preservation

Florida law favors transparency and the preservation of the judicial record. The public, Defendant, and the judiciary have an interest in preserving the originals of critical documents — especially when those very documents are the subject of fraud allegations across multiple court filings and appellate records.

5. Relief Requested

Defendant respectfully asks that this Court:

Immediately suspend the execution of the Order authorizing substitution of originals;

Direct the Clerk of Court not to release, alter, or destroy any original document in this case file;

Consider sua sponte vacating the prior order on fraud-related and procedural grounds.

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Respectfully submitted,

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